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Docket No.: KCC-14,083

**REMARKS**

Applicant respectfully requests reconsideration of this Patent Application, particularly in view of the above Amendment and the following remarks. No additional fee is required for this Amendment as the number of independent claims has not changed, and the total number of claims has not changed.

**Amendment to the Claims**

Applicant has amended independent Claims 3, 9, and 18 to further clarify the claimed invention. Support for this Amendment can be found in the figures and at page 11, last paragraph, of Applicant's Specification. No new matter has been added to the claims by this Amendment.

**Claim Rejections - 35 U.S.C. §102**

Claims 2-3, 6-7, 9-10, 13-14, and 18 have been rejected under 35 U.S.C. §102(b) as being anticipated by Schaar, U.S. Patent 3,951,150.

Applicant's invention of amended Claims 3 and 9 recite that the flap sheet includes two opposed pleats and that the flap sheet is expandable across an entire transverse dimension between the pleats in a direction away from an outer cover of the absorbent article, thereby forming a pocket between the flap sheet and a body-

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side liner of the absorbent article. Claim 18 recites a pocket sheet including two opposed pleats and that the pocket sheet is expandable across an entire transverse dimension between the pleats in a direction away from the backsheet of a backsheet of the absorbent article.

The Examiner alleges that Schaar discloses a pocket defined by panels A, B, C, D, and E. However, the adhesive 56 "intermediate the spaced pleat means ... retains the front surface 34 of the central panel C in the end section 48 against the underlying front surface 34 of the central panel C of the diaper" (Column 4, lines 36-44). In other words, the end section 48 is adhered down to the inner surface of the diaper at the middle of the alleged pocket, and thus the "sheet" 48 is not expandable across an entire transverse dimension between the pleats in a direction away from an outer cover of the absorbent article, as in Applicant's claimed invention.

In view of the Examiner's comments at page 4, paragraph 6, of the Office Action, Applicant believes the above Amendment overcomes the rejection under 35 U.S.C. §102(b) as being anticipated by Schaar.

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**Claim Rejections - 35 U.S.C. §103**

Claims 15-17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Foreman, U.S. Patent 4,738,677, in view of Igaue et al., U.S. Patent 5,114,420.

Claim 15 recites forming two discrete longitudinal pleats in a flap sheet proximate a back region along opposed sides of said flap sheet. The longitudinal pleats define peripheral sides of a pocket between the flap sheet the said body-side liner.

As previously discussed in the Amendment dated 31 January 2003, Foreman does not teach or suggest a pocket for collection of fecal matter defined by opposed pleats or a pocket where the pleats define the peripheral sides. Foreman teaches a diaper having a second barrier cuff 262 adjacent the end edge of the diaper. (Column 5, lines 27-32). The second barrier cuff is formed by folding the end of the second barrier cuff member back on itself and securing it to another segment of the second barrier cuff to form a tunnel. (Column 5, lines 51-56). Foreman teaches that a spacing elastic member 77 is preferably not disposed in the tunnel of the second barrier cuff, however such a construction "is contemplated." (Column 5, lines 61-68). The addition of the spacing elastic member 77 along the second distal edge 266 of the second barrier cuff 262 would result in gathering of the material of the second barrier

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cuff 262 along second distal edge 266, as such gathering occurs in the similarly structured first distal edge 66. (Column 5, lines 61-68).

The gathering in the barrier cuff 262 does not define a pocket or form peripheral sides of a pocket for collection of fecal matter as in Applicant's claimed invention. Therefore, Foreman does not disclose or suggest Applicant's claimed invention. Igaue et al. teaches gathered material, but only in the leg regions of a diaper, and does not disclose or suggest forming longitudinal pleats in a flap sheet having discrete longitudinal pleats that define peripheral sides of a pocket, as in Applicant's Claim 15.

Applicant respectfully urges that the Foreman patent and the Igaue et al. patent, alone or in combination, do not render Applicant's invention of Claim 15 obvious in the manner required by 35 U.S.C. 103(a).

#### **Claim Rejections - 35 U.S.C. §103**

Claims 4, 5, 11, and 12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schaar, U.S. Patent 3,951,150, in view of Foreman, U.S. Patent 4,738,677.

Claims 4 and 5 depend from Claim 3, and Claims 11 and 12 depend from Claim 9, and are patentable for at least the same reasons as Claims 3 and 9,

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respectively, discussed above. The combination of Schaar and Foreman does not disclose or suggest a pleated flap sheet that is expandable across an entire transverse dimension between the pleats in a direction away from the body-side surface of the absorbent article to form a pocket defined by the pleats and between the flap sheet and the body-side surface, as in Applicant's claimed invention.

#### **Response to Examiner's Remarks**

In the Amendment dated 12 January 2004, Applicant noted how the rejection of Claims 15-17 over Foreman and Igaue et al. was believed to be overcome by the Amendment dated 31 January 2003. The belief was based on the Examiner's indication that "the rejections relying on Foreman have not been reraised" in the final Office Action mailed 13 June 2003. The Examiner responds in the current Office Action that "there does not appear to be any statement on the record that the Examiner considered the rejection to be inapplicable ..." The Examiner further alleges that she "is not required to present every possible rejection based on the prior art."

MPEP 707.07(e) states in the examination of an amended application "[e]very point in the prior action of an examiner which is still applicable must be repeated or referred to, to prevent the implied waiver of the *requirement*." In the case of a final rejection, such as the final rejection mailed 13 June 2003, "the Examiner

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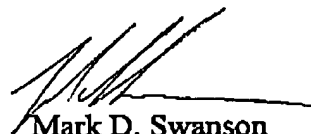
shall repeat or state all grounds of rejection then considered applicable to the claims in the application, clearly stating the reasons in support thereof." 37 CFR 1.113; MPEP 706.07. Applicant respectfully asserts that the Examiner is required to present every rejection known to her at the time of an Office Action.

### Conclusion

Applicant intends to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicant has not addressed in this response, Applicant's undersigned attorney requests a telephone interview with the Examiner.

Applicant sincerely believes that this Patent Application is now in condition for allowance and, thus, respectfully requests early allowance.

Respectfully submitted,



Mark D. Swanson  
Regis. No. 48,498

Pauley Petersen & Erickson  
2800 West Higgins Road  
Suite 365  
Hoffman Estates, Illinois 60195  
(847) 490-1400  
FAX (847) 490-1403

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